



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF FINANCIAL AND INSURANCE SERVICES  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
ROBERT W. SWANSON, ACTING DIRECTOR

LINDA A. WATTERS  
COMMISSIONER

## BILL ANALYSES

**BILL NUMBER:** House Bill Numbers 4745 and 4746 (as introduced)  
**TOPIC:** Refusal to Provide Health Benefit  
**SPONSOR:** Representative Hummel  
**CO-SPONSORS:** None  
**COMMITTEE:** House Committee on Insurance  
**DATE:** February 21, 2006

### POSITION

The Office of Financial and Insurance Services opposes this legislation.

### PROBLEM/BACKGROUND

For various public policy reasons, the Legislature occasionally requires or "mandates" that all insurers provide a particular benefit for policyholders or enrollees--regardless of whether the insurer would voluntarily provide that benefit if not required to do so by state law. Some health plan providers and insurers have argued they should be permitted to ignore mandated benefits if they believe they conflict with corporate bylaws, articles of incorporation or even the corporate mission statement.

### DESCRIPTION OF BILL

The proposed legislation adds similar language to both the Nonprofit Health Care Corporation Reform Act, 1980 PA 350 (HB 4745) and the Insurance Code of 1956, 1956 PA 218 (HB 4746). A new section is created in each act that would allow health maintenance organizations (HMOs), health insurers, and Blue Cross Blue Shield of Michigan (BCBSM) to refuse to offer or provide a health care benefit on ethical, moral, or religious grounds, if that principle is reflected in its corporate statements. However, the HMO, insurer or BCBSM could not refuse to offer or provide the benefit if the benefit is specifically covered under the contract, policy, or certificate. If an HMO, insurer or BCBSM refuses to offer or provide a health care benefit for allowable reasons under this proposal, it cannot be found to be liable under civil, criminal, or administrative law.

## **SUMMARY OF ARGUMENTS**

### **Pro**

This proposed legislation gives a health plan more control over the type of benefits it can be required to provide to its members. Michigan law currently contains a number of mandated benefits, such as substance abuse treatment, diabetes treatment, some prescription drugs, antineoplastic therapy, and breast cancer screening, among others. These current mandates do not appear to violate any current health plan corporate bylaws or mission statements. Some health plans believe they should not have to provide benefits that violate the values set by its governing board.

Because an HMO, insurer or BCBSM cannot refuse to offer or provide a benefit if the benefit is specifically covered under the contract, this language will prevent HMOs, insurers and BCBSM from arbitrarily refusing to provide the benefit to certain individuals and not others. It will also prevent HMOs, insurers and BCBSM from contracting to provide the benefit and then refusing to cover it at a later date.

### **Con**

The proposed legislation would allow an HMO, insurer, or BCBSM to refuse to offer or provide a benefit mandated under law. The standard upon which a violation of the HMO's, insurer's, or BCBSM's principle reflected in its articles of incorporation, bylaws, or mission statement is extremely vague and could leave this section open to various interpretations.

The section that limits liability for civil, criminal, or administrative actions that may cause harm to a patient is also broad and vague. If an individual purchases a comprehensive health insurance policy, he or she has certain expectations regarding the type of coverage it provides. Removing certain coverages or benefits based on the HMO's, the insurer's, or BCBSM's ethical, moral, or religious beliefs will make the purchase of such comprehensive coverage more confusing to the insured. An insured should have some recourse if they purchase a policy based on certain beliefs and then find after they have filed a claim the HMO, insurer, or BCBSM did not provide that coverage because it is allowed to exclude coverage based upon its corporate values.

This legislation would tie the hands of future legislatures by allowing an HMO, insurer or BCBSM to use "corporate values" to ignore health benefit mandates the legislature may want to enact into law.

## **FISCAL/ECONOMIC IMPACT**

OFIS has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Services: None

Budgetary:  
Revenue:  
Comments:

(b) To the Department of Labor and Economic Growth: None

Budgetary:  
Revenue:  
Comments:

(c) To the State of Michigan: None

Budgetary:  
Revenue:  
Comments:

(d) To Local Governments within this State: None

Comments:

#### **OTHER STATE DEPARTMENTS**

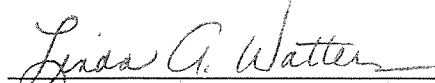
N/A

#### **ANY OTHER PERTINENT INFORMATION**

This proposed legislation was introduced in the last session as Senate bills 895 and 896, as well as House bills 5277 and 5278.

#### **ADMINISTRATIVE RULES IMPACT**

The OFIS has general rulemaking authority under the Insurance Code of 1956, 1956 PA 218.

  
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Linda A. Watters  
Commissioner

  
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Date